

Government of Jammu and Kashmir
Skill Development Department
Civil Secretariat, Jammu.

Subject:- Regularization of the service of Smt Anita Kumari.

Reference:- Hon'ble High Court order dated 12.05.1999 passed in LPA(SW) No. 22/98.
Hon'ble Supreme Court order dated 30.07.2001 passed in SLP(Civil) No. 178-179/2000.
Hon'ble Supreme Court order dated 28.11.2003 passed in Contempt Petition No. 179-180/2003.
Hon'ble High Court order dated 18.11.2021 passed in CPLPA No. 28 of 2018 titled Anita Kumari vs B.V.R Subrahmanyam & Ors.
U.o.NO. GAD-CORD/211/2021 10.12.2021 from General Administration Department.

Government Order No.94-JK(DSD) of 2021

Dated:10.12.2021

Whereas, Smt Anita Kumari D/o Dilbagh Raj Gupta R/o Gandhi Nagar, Jammu was engaged on academic arrangement in the Polytechnic Institution in the discipline of Secretariat Practice and Office Management on consolidated salary. She filed a writ petition bearing No. 870/97 titled Anita Kumari vs State & Ors before the Hon'ble High Court at Jammu with the prayer that her services should be regularized; and

Whereas, the Hon'ble High Court vide its judgment dated 09.03.1998 dismissed the writ petition; and

Whereas, the petitioner filed an LPA bearing No. 22/98 before the Hon'ble High Court which was disposed of vide order dated 12.05.1999 with following directions:

"Thus there appears to be no justification not to accord the same treatment to the present appellants. The appeal is accordingly allowed. The respondent State is directed to consider claim of the appellant on the same lines it did in the case of nine of the teachers who were asked to withdraw the writ petition and which order has been quoted above. During the period the matter is under consideration the service tenure of the appellant would not be brought to an end."

Whereas aggrieved by the directions of the Hon'ble High Court in LPA, the State preferred an SLP before the Hon'ble Supreme Court on 30.07.2001 disposed off the SLP with the following directions:-

"The Special Leave Petitions are dismissed but with the directions that in the next selection candidature of the respondent shall be considered irrespective of age bar. The exiting vacancies should be filled up by making the selection within 6 months from today."

And whereas in pursuant to the directions of the Hon'ble Supreme Court the vacancies in various disciplines including six posts of Lecturer Grade-II in

Secretarial Practice and Office Management were referred to the Public Service Commission for selection of the suitable candidates; and

Whereas, the petitioner was informed by the Government vide letter No. Edu/Tech/Poly/47/95 dated 10.10.2001 and dated 12.10.2001 to apply for the post in Public Service Commission and age bar if involved in her case shall be relaxed by the Government; and

Whereas, the petitioner also applied for the said post which has been referred to Public Service Commission by the Department; and

Whereas, the petitioner filed a contempt petition before the Apex Court for not implementing the directions of the Hon'ble Supreme Court; and

Whereas, the Hon'ble Supreme Court while disposing of the contempt petition vide its order dated 28.11.2003 issued the following directions:-

"The respondent State is directed to consider case of the petitioner in the same manner as they have considered the case of the persons mentioned in the Government of J&K Order dated 01.02.1995 copy of which is produced as Annexure D for the purpose of regularization within six weeks from today and report back to this court."

Whereas, the petitioner filed another contempt petition bearing CPLPA No. 28/2018 (in LPA No. 22/1998) titled Anita Kumari vs B.V.R Subrahmanyam & Ors before the Hon'ble High Court alleging that order dated 12.05.1999 passed in LPASW No. 22/1998 has not been complied with by the respondents; and

Whereas, the Hon'ble High Court vide order dated 08.11.2019 passed in the contempt petition directed as under:-



"Let the contempt petition be placed before the Chief Secretary respondent No. 1 to ensure immediate compliance of the order. The compliance report shall be positively filed before us within one week after the service of the order passed by this Court, failing which the Commissioner/Secretary (Technical) Education Department, Civil Secretariat, Jammu shall remain personally present in the Court".

Whereas, in pursuance to directions of the Hon'ble High Court the Department filed a detailed compliance report along with an application on 22.11.2019 for seeking clarification from the Hon'ble High Court as to which order needs to be complied with in relation to present contempt petition due to series of orders passed by the Hon'ble High Court in the case having different implications; and

Whereas, the Hon'ble Division Bench of the High Court heard the matter on 18.11.2021 and passed an order with following directions:-

"We do not feel that once the Supreme Court has reiterated the directions of the High Court in the subsequent order, there is any need for seeking clarification and as such the State authorities are prima facie under contempt not only of the order of the High Court but that of the Supreme Court.

Sh. Sawhney submits that before a charge is framed, he may be allowed two weeks' time to consider the case of the petitioner for regularization as directed.

On the personal request of the counsel, in the interest of justice so that Some good sense prevails upon the State Authorities, let this matter be placed again on 17.12.2021 for personal presence of (Sh. Asgar Samoon) Commissioner/Secretary to Government, Higher & Technical Education now Skill Development Department for the purposes of framing the charge, if necessary."

Whereas, the Department of Law, Justice & Parliamentary Affairs vide U.O. No.LAW/LIT3/381/2021-10 dated 25.11.2021 opined in the matter as under:-

"Now at this stage the department is left with no option other than to implement the Judgment dated 12.05.1999 passed by Hon'ble High Court read with order dated 28.11.2003 passed by Hon'ble Supreme Court as the finality stands attained to the same. Consequently appropriate orders for compliance of Judgment be issued accordingly. The draft Government order was shown to Learned Advocate General also and has been vetted accordingly. The department is advised to issue the same after seeking approval of competent authority and observing all codal formalities. A compliance be also filed before the Hon'ble Court so as to avoid any adverse orders."

Now, in deference to the Orders passed by the Hon'ble High Court dated 12.05.1999 read with order dated 28.11.2003 passed by the Hon'ble Supreme Court, sanction is accorded to the regularization of Smt. Anita Kumari D/O Dilbagh Raj Gupta R/o Gandhi Nagar, Jammu against the post of Lecturer-I in pay level L-9(52700-166700) from the date of Judgment passed by Hon'ble High Court, J&K on 12.05.1999 read with order dated 28.11.2003 passed by Hon'ble Supreme Court. The regularization is ordered in view of the court directions and this shall not form precedent for claiming identical treatment for any other case in future.

By Order of the Government of Jammu and Kashmir.

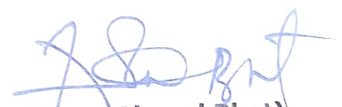
Sd/-
(Dr. Asgar Hassan Samoon)IAS
Principal Secretary to Government,
Skill Development Department

Dated:10.12.2021

No. DSD-IglOpoly/3/2021-02

Copy to the:-

1. Learned Advocate General, J&K.
2. Commissioner/Secretary to the Government, General Administration Department.
3. Secretary to the Government, Department of Law, Justice and PA.
4. Director, Skill Development Department.
5. Director, Archives, Archeology & Museums.
6. Additional Secretary to Chief Secretary.
7. OSD with Hon'ble Advisor (B).
8. Deputy Secretary (Legal), Department of Skill Development.
9. Advocate concerned.
10. PS Principal Secretary, Department of Skill Development.
11. Concerned official.
12. Government order file/stock file/website Incharge.


(Fayaz Ahmed Bhat)
Under Secretary to the Government,